

APPLICANTS:
James & Claudia Reyerson

REQUEST: A variance to locate a garage within the required side and rear yard setbacks in the R1 District

HEARING DATE: November 20, 2006

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5572

ZONING HEARING EXAMINER'S DECISION

APPLICANT: James T. Reyerson

CO-APPLICANT: Claudia R. Reyerson

LOCATION: 2106 Deadora Road – Section V Valley View subdivision, Bel Air
Tax Map: 56 / Grid: 3C / Parcel: 489 / Lot: 46
First (1st) Election District

ZONING: R1 / Urban Residential District

REQUEST: A variance, pursuant to Section 267-36B, Table IV, of the Harford County Code, to permit a garage to be located within the required 15 foot side yard setback (9.2 foot setback proposed) and within the required 50 foot rear yard setback (47 foot setback proposed) in the R1 District.

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicant first testified Charles Merritt of Merritt Development Consultants, Inc. Mr. Merritt described the application as requesting a variance to add a one-car garage to the Applicants' property. The property of the Applicants is approximately 19,000 square feet in size, zoned R1/Urban Residential. The property is located in the Valley View Subdivision, and is improved by a bi-level single family home. Also located on the subject property is an existing in-ground pool and utility structure. The Applicants purchased their property around Christmas, 1979.

Mr. Merritt described the proposed garage as being about 12 feet by 20 feet in size. Mr. Merritt feels that the garage will not be detrimental to the neighborhood and that the neighbors, in fact, support the request. The garage, if built as proposed, would intrude into the required 15 foot side yard setback by as much as 6 feet. Since the side of the proposed garage will not exactly parallel the side yard lot line, the intrusion into the setback will be somewhat less toward the front of the Applicants' lot.

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James T. Reyerson, Co-Applicant, then testified that his purpose in requesting permission for the garage variance is to improve and enhance his property. The Applicants currently have a pick-up truck parked alongside of the existing garage. The Applicants would store the vehicle in the new garage, which would be more pleasing to the neighbors and the neighborhood. A detached garage can be built without a variance, testified Mr. Reyerson, but the Applicants feel that such a structure would not be as aesthetically pleasing as the proposed attached garage. A garage could possibly be placed on the other side of the house, but to do so would necessitate the house then being serviced by two driveways (one to the existing two-car garage and one to the new garage) and would not look good. Furthermore, the new garage, as proposed, would have a more direct access to the existing in-ground pool located to the rear of the Applicants' property.

Mr. Reyerson also believes that his lot is unique in that it is somewhat pie-shaped.

Next for the Harford County Department of Planning and Zoning testified Shane Grimm. Mr. Grimm, in reiterating the findings of the Department of Planning and Zoning, stated that the property is not unique. There are other similarly shaped properties within the Applicants' subdivision. There are also other properties which have one and two-car attached garages. Accordingly, the Department finds nothing unusual or unique about the property and recommends denial.

Mrs. Reyerson then testified that the proposal is the best solution to meet the Applicants' needs. She and her husband could construct a carport, without a variance, but they believe that the proposed garage is a much more attractive alternative.

Other than the Harford County Department of Planning and Zoning no opposition was noted. The Applicants submitted a series of letters from neighbors expressing their lack of opposition to the request.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

"Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*

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(2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants are no doubt well intentioned in their request for a variance in order to construct an attached 12 foot by 24 foot garage to their 1,600 square foot single family home. They now park a pick-up truck on the property which would be stored in the proposed garage. They feel that the proposed garage would be more pleasing to the neighborhood and, in fact, some of the neighbors have expressed, by letters to the file, their lack of opposition.

However, the Applicants already have a two-car attached garage. There was testimony, not contradicted by the Applicants, that it is not uncommon for homes in the neighborhood to have one and two-car garages. Indeed, such an amenity is a common feature in Harford County. However, a one-car garage, attached to a relatively average sized home that already enjoys an attractive two-car garage, is certainly not such a common feature. Nevertheless, it could be allowed as a matter of right provided it does not impact any applicable setback.

Unfortunately for the Applicants, the proposed garage can only be built if allowed to impact the side yard setback by some 6 feet. No persuasive reason is advanced by the Applicants to justify the granting of such a variance. The property is not unique. While the Applicants believe it is somewhat pie-shaped, a review of the plat submitted with the file shows no truly unique features about the property and, in fact, the Department of Planning and Zoning also concurs that there is nothing unique about the property. The Applicants merely wish to construct the additional garage for their own convenience. While such a desire is certainly not to be criticized, it cannot be used as the only basis for the granting of a variance.

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In summary, there is simply nothing unique or unusual about the subject property which prohibits the owners from using it for normal residential purposes, similar to the uses made by others in their neighborhood and throughout Harford County. Being unable to construct an additional garage, when one already has a two-car garage, is simply not a hardship or practical difficulty sufficient to justify a variance.

CONCLUSION:

Accordingly, it is recommended that the requested variance be denied.

Date: December 7, 2006

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on JANUARY 8, 2007.